



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC063

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of a Letter of Authorization (LOA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued a one-year LOA to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: This authorization is effective from July 1, 2012 through June 30, 2013.

ADDRESSES: The application and LOAs are available for review by writing to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3235 or by telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301-427-8401.

#### SUPPLEMENTARY INFORMATION:

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the total taking over the five-year period will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that Federal Register notice. The species that applicants may take in small numbers during EROS activities are bottlenose

dolphins (Tursiops truncatus), Atlantic spotted dolphins (Stenella frontalis), pantropical spotted dolphins (Stenella attenuata), Clymene dolphins (Stenella clymene), striped dolphins (Stenella coeruleoalba), spinner dolphins (Stenella longirostris), rough-toothed dolphins (Steno bredanensis), Risso's dolphins (Grampus griseus), melon-headed whales (Peponocephala electra), short-finned pilot whales (Globicephala macrorhynchus), and sperm whales (Physeter macrocephalus). NMFS received requests for a LOA from ExxonMobil Production Company (ExxonMobil) for activities covered by EROS regulations.

#### Reporting

ExxonMobil has not used explosives for any rig structure removal operations under the 2011 to 2012 LOA.

Pursuant to these regulations, NMFS has issued an LOA to ExxonMobil. Issuance of the LOA is based on a finding made in the preamble to the final rule that the total taking over the five-year period (with monitoring, mitigation, and reporting measures) will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicant is in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: June 25, 2012

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Helen M. Golde,  
Acting Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

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